

Comments on Interstate Pay-Per-Call and Other Information Services
CC Docket No. 96-146

Submitted by James E. Fox, owner of Fox Concepts. I have been watching this industry over the past 5 years and want to comment briefly on the PPC rules and request for comments from the FCC as a consumer and as a consultant.

GENERAL COMMENTS

The Pay-Per-Call Rule is named the Telephone Disclosure and Dispute Resolution Act (TDDRA) of 1992. To date, the FCC and FTC have firmly defined and enforced the disclosure requirements of this act. The FCC and the FTC have defined and enforced a caller to information services (via 800, 900 or international dialing) rights to dispute any and all charges billed against that caller or the owner of the number to which the information service was charged. Unfortunately, the FCC has not defined the information service providers' rights to a resolution of the disputes. Currently the enforcement of TDDRA permits customers who have been billed for information services the right to have the charges adjusted from their bills even if the information services were provided to the customers' telephone number.

In an October 30, 1998 call for rulemaking on revising TDDRA that was published in the Federal Register, Section A, paragraph 1 states the following. "Congress enacted the Telephone Disclosure and Dispute Resolution Act of 1992 ("TDDRA"). 15 U.S.C. 5701 et seq., to curtail the unfair and deceptive practices engaged in by some pay-per-call businesses and to encourage the growth of the legitimate pay-per-call industry." As noted above, the FCC and FTC have definitely curtailed the unfair and deceptive practices of the pay-per-call business. Unfortunately, the FCC and FTC have done nothing positive to encourage the growth of the legitimate pay-per-call industry. In fact, both agencies, separately and together, have done all in their powers to ruin the pay-per-call industry. As proof, note that the chargebacks for most 900 services range from 60 % to 95%. No industry can survive in such a financially irregular environment

The enforcement of TDDRA has caused notices to be sent to telephone consumers notifying them that they can dispute any and all pay-per-call services. TDDRA enforcement has permitted LEC's to include the total value of the revenue of pay-per-call services billed to consumers and businesses in their financials as well as claiming the revenue from billing and collection charges billed to common carriers and billing consolidators for providing such services. LEC's are not entitled to any of the revenues from pay-per-call services billed to consumers as that revenue is due to common carriers, billing consolidators or common carriers. LEC's currently are free to adjust all of a customer's pay-per-call billings without any attempt to determine if such billings are legitimate.

In enforcing TDDRA, the FCC has forgotten to protect the businesses providing pay-per-call services while the FTC over protected the consumer. Since the mid-1990's, telecom technology has permitted billing representatives at LEC's to view network records while on-line with consumers. When a consumer calls to inquire about pay-per-call services the

billing representative can call up network records to determine if a 900 call was actually made from the consumers' telephone number. In the case of a 900 number, a billing representative can clearly detect if the call was actually made at the time billed.

Unfortunately, the LEC's have trained their billing representatives to immediately adjust any customer's 900 charges without determining if a call actually occurred. The LEC's also have additional information to use in investigating the dispute. When a 900 billing agreement is signed with a LEC, the LEC requires that each 900 number to be billed be identified with a toll free number or postal address for customer service and the name of the service bureau providing the service. Failure to investigate 900 charges disputes appears to make the LEC's accessories in the thefts of services due to information provider when the 900 calls actually occurred but were adjusted without investigation by the LEC representative. Many 900 charges are adjusted by the LEC's for "goodwill" purposes even when the customer admits incurring the charges.

With such a poor outlook for business success on 900 service, many information providers, both legitimate and scam, moved to toll free services in hopes of reasonable (legitimate) or lax (scam) treatment from regulators. Enforcement of TDDRA's provisions relating to pay-per-call services via toll free services has been strict but there are still loop holes that have allowed scams to continue.

CONCLUSION

The FCC has the ability to revise TDDRA so that it protects consumers while permitting a vital and thriving pay-per-call industry which would contribute to the US economy.